IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3240 OF 2004

Turkewadi Rural Industries .. Petitioner

V/s.

The Commissioner (Appeals-II),
of Central Excise & Customs,
Pune & Others .. Respondents.

Mr.S.G. Deshmukh for the petitioner.

Mr.A.S. Rao i/b. T.C. Kaushik for respondent Nos.1 to 4.

CORAM : R.M. LODHA, &
J.P. DEVADHAR, JJ.

DATED : 29TH OCTOBER, 2004.

P.C. :

Rule. Returnable forthwith.

2. By consent the rule is treated on board and taken up for hearing at this stage.

3. The petitioner has set up the case that no notice was given by the Tribunal before passing the impugned order. The learned counsel for the respondents submitted that he was not in a position to say whether the petitioner was given notice of the

date of hearing by the Customs, Excise & Service Tax Appellate Tribunal (for short 'the Tribunal'). If that be so, the impugned order has to go because there is nothing to show that the petitioner was given notice.

4. We, accordingly, set aside the order dated December 3, 2003 and restore the appeal as well as the stay application for fresh consideration in accordance with law.

5. The petitioner is directed to appear before the Tribunal on November 30, 2004. The Tribunal shall fix the date as per its convenience for consideration of the matter.

(R.M. LODHA, J.)

(J.P. DEVADHAR, J.)